ORDER SHEET IN THE HIGH COURT OF SINDH AT KARACHI

FRA NO.9/2021

Date

Order with signature of Judge

- For hearing of CMA No.1285/2021
- 2. For hearing of main case.



22.04.2021

Mr. Umar Farooq Khan advocate alongwith appellant. Respondent No.3 in person.

Heard learned counsel for appellant as well respondent No.3 (landlord).

- 2. Since learned counsel for appellant admits that appellant was inducted as tenant however after lapse of one year he purchased demised premises through sale agreement as well paid Rs.60,00,000/- in cash to the landlord for which he filed suit for recovery. However he contends that he will not pursue the present FRA if sufficient time of three months is allowed to vacate the premises.
- 3. At this juncture respondent No.3 present contends that he has not received a single penny on account of sale consideration; that sale agreement is fake and fraudulent; that his mother is old and living at Hyderabad, he is facing hardship as no one is there to take care of her and premises is required for her as his brother is residing at Karachi as his brother was earlier residing at Hyderabad.
- 4. It is settled proposition of law that once tenant takes plea that he was inducted as tenant and that tenancy ceased to have its effect as he is purchaser of the property through sale agreement and that sale agreement is not admitted by the landlord, in that situation tenant is required to evict the premises and he may pursue



his civil remedy for specific performance of contract or recovery in its independent jurisdiction (*Abdul Rasheed v. Maqbool Ahmed & others* 2011 SCMR 320). However, in instant case appellant is ready to vacate the premises within three months. Therefore it would be in the interest of justice to allow two months for vacation of the premises in terms that:-

- Appellant shall hand over possession of the demised premises to respondent No.3 within two months from today.
- II. Appellant shall pay all utility charges of the demised premises till handing over of the possession.
- III. In case appellant fails to hand over the possession of demised premises Rent Controller/Executing Court concerned without filing any execution application and notice to the tenant, shall hand over the possession with the aid of police while breaking the locks of demised premises.

Appellant present affirms disposal of instant FRA in above terms. Disposed of accordingly.

JUDGE

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